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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/674,852

12/14/2000

Axel Schamal

225/49355

5694

23911

7590

09/01/2005

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EXAMINER

REIS, TRAVIS M

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/674,852	Applicant(s) SCHAMAL, AXEL	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, & 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dehn (U.S. Patent 4958439) in view of Ham (U.S. Patent 5343628) & Hall (U.S. Patent 2419134).

Dehn discloses a device for determining the position of or for measuring a hole in a body part of a motor vehicle comprising a threaded part (60) for fitting into a hole in the body part of a motor vehicle (10), and an attachment element (54) which is releasably connectable to the part and, with the part fitted into the hole, rests on the component surface (20) surrounding the hole (Figures 1 & 2); wherein the attachment element has a shell (56) made of a non-magnetic material and a magnetic insert (58) arranged within the shell and releasably connectable to the part by a screw thread which passes through the insert and screws into the shell (Figure 2); wherein a lower edge of the shell bears substantially flush against a lower side of the insert (Figure 2).

Dehn does not disclose the part is connected to a spike.

Ham discloses a vehicle repair measuring device (20) which utilizes spikes (106) with tapered ends (110) for contacting various parts of the auto body (Figure 2) Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the tapered end disclosed by Ham opposite the screw thread of the part disclosed by Dehn in order to better contact the holes of the auto body.

Dehn does not disclose the shell of the attachment element has an essentially hemispherical or partially spherical shape.

Hall discloses a locator (1) utilizable in forming metal articles with a partially spherical shape (36a) of its shell section (6a) (Figures 1-4). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to shape the shell disclosed by Dehn in the manner taught of the shell disclosed by Hall in order to provide a better gripping area of the measurement device.

3. Claims 5, 8-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Dehn, Ham, & Hall as applied to claims 1, 3, 4, & 6 above, and further in view of Holmes (U.S. Patent 4220187).

Dehn, Ham, & Hall disclose all of the instant claimed invention as stated above in the rejection of claims 1, 3, 4, & 6, but do not disclose expressly a spike fastened to the attachment element in an asymmetrical manner with respect thereto.

Holmes discloses a self-locking fastener with an attachment element/nut (12) to which the bolt (10) fastens to in an asymmetrical manner with respect thereto (Figures 1-3, 5, & 7). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the spike taught by Dehn, Ham, & Hall an asymmetric spike disclosed by Holmes in order that the spike could be locked in place and immovable.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 3-6, & 8-10 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2859

**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis  
Examiner  
Art Unit 2859



Diego Gutierrez  
Supervisory Patent Examiner  
Tech Center 2800

tmr  
August 30, 2005

**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**